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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/747,609

12/29/2003

Wen X. Jin

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EXAMINER

SCRUGGS, ROBERT J

ART UNIT

PAPER NUMBER

3723

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/747,609

Applicant(s)

JIN ET AL.

Examiner

Robert Scruggs

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/12/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment received on February 12, 2007. Applicant has amended claim 1 to include structural limitations not previously considered, claims 8-13 have been withdrawn and claims 14-16 have been added therefore claims 1-7 and 14-16 will be fully examined.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on February 21, 2007, is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

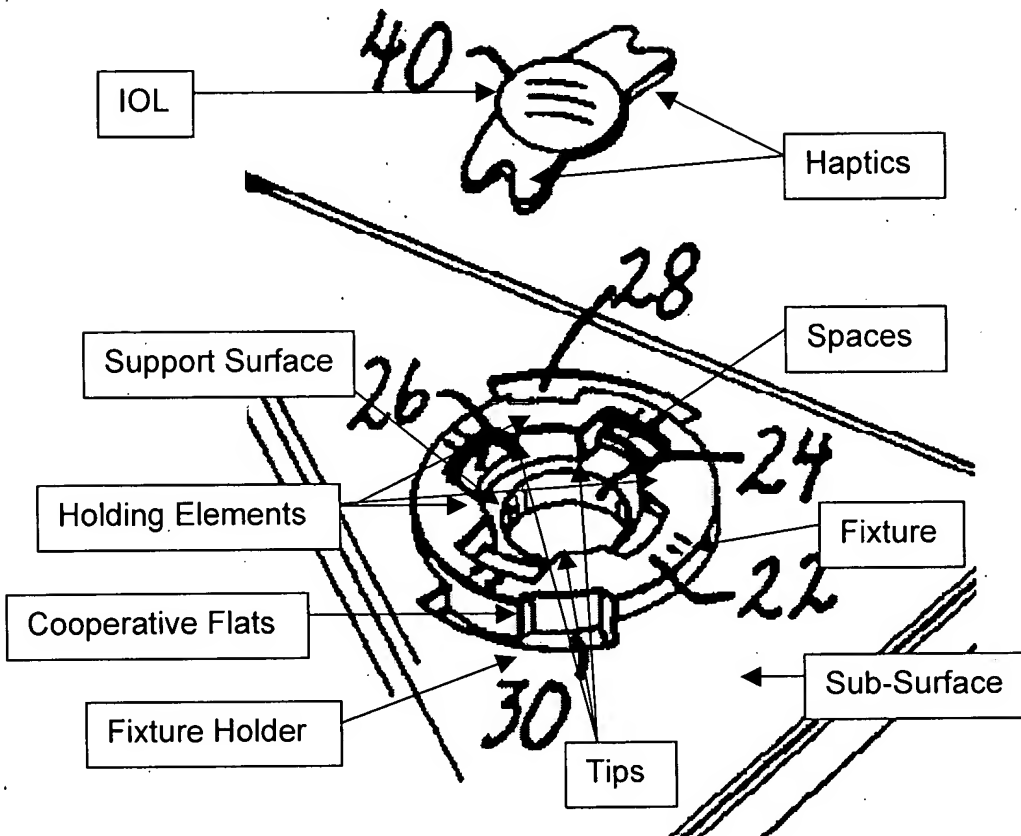
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 and 14-16 are **Finally** rejected under 35 U.S.C. 103(a) as being unpatentable over LaHaye (4269307) in view of Sarfarazi (6488708). LaHaye discloses an intraocular lens (IOL) assembly comprising, an intraocular lens device (40), a circular support surface (Figure 3) (see figure below), one or more annularly curved dovetail shaped holding elements spaced about and attached to the perimeter of said support surface (see figure below), said holding elements also including an inner-most tip and two diametrically opposed tips which define a diameter slightly smaller than the diameter of said IOL, whereby haptics of the IOL extend in spaces (see figure below)

Art Unit: 3723

between said lens holding elements, a fixture holder (see figure below) and a subsurface (see figure below) surrounding said support surface for removably mounting said fixture to said fixture holder and said fixture including cooperating flats (see figure below) for fixing the rotational orientation between the fixture holder, but lacks, an intraocular lens having first and second optics. However, the examiner would like to note that LaHaye discloses that the holder has, "universal application" for holding numerous types of intraocular lenses (IOL) (Column 3, Lines 17-23 and Column 4, Lines 62-66). Sarfarazi teaches of one such intraocular lens that has first (42) and second optics (44) interconnected by one or more haptics (46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the intraocular lens, of LaHaye, with an intraocular lens having first and second optics, in view of Sarfarazi, in order to provide an intraocular lens that restores a patient's multi-focal vision following cataract extraction.



5. Claims 1-5 and 14-16 are **Finally** rejected under 35 U.S.C. 103(a) as being unpatentable over Tunis (5549614) in view of Sarfarazi (6488708). Tunis discloses an intraocular lens (IOL) assembly comprising, an intraocular lens device (80), a circular support surface (Figure 6) (116), one or more annularly curved dovetail shaped holding elements (100, 102) spaced about and attached to the perimeter of said support surface, said holding elements also including an inner-most tip and two diametrically opposed tips which define a diameter slightly smaller than the diameter of said IOL, whereby haptics of the IOL extend in spaces (138) between said lens holding elements and the device also includes a fixture holder (110) which holds the fixture in place, but

Art Unit: 3723

lacks, an intraocular lens (IOL) having first and second optics. However, Sarfarazi teaches of an intraocular lens that has first (42) and second optics (44) interconnected by one or more haptics (46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the intraocular lens, of Tunis, with an intraocular lens having first and second optics, in view of Sarfarazi, in order to provide an intraocular lens that restores a patient's multi-focal vision following cataract extraction.

6. Claims 6 and 7 are **Finally** rejected under 35 U.S.C. 103(a) as being unpatentable over Tunis (5549614) in view of LaHaye (4269307) and Sarfarazi (6488708). Tunis discloses the claimed invention previously mentioned above, but lacks, having the fixture being removable connected to the fixture holder where cooperative flats fix the rotational orientation between the fixture and the fixture holder. However, LaHaye discloses these features previously mentioned above. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly, of Tunis, to be removably connected to the holder where cooperative flats fix the rotational orientation between the assembly and the holder, in view of LaHaye, in order maintain a sterile environment for the intraocular lens where the device can be easily cleaned and maintained.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 3723

8. Claims 1-7 and 14-16 are **Finally** provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10920623 in view of LaHaye (4269307) or Tunis (5549614). In the instant application, a fixture having holding elements formed with a dovetail shape is the only difference between the associated copending application No. 10920623. Both LaHaye and Tunis disclose holding elements formed with a dovetail shape for holding an intraocular lens. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shape of the holding elements of application No. 10920623 to be formed with a dovetail shape, in view of LaHaye or Tunis, in order to more effectively secure an intraocular lens.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Graham (4402396), Brady et al. (6797004) and Callahan et al. (4615703) all disclose lens holding devices where at least one optical component having various haptics are secured for processing or packaging.

Art Unit: 3723

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



DAVID B. THOMAS
PRIMARY EXAMINER

RS